UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/SR.1456
26 October 1995

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

Fifty-fifth session

SUMMARY RECORD OF THE 1456th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 23 October 1995, at 3 p.m.

Chairman: Mr. AGUILAR URBINA

later: Mr. EL SHAFEI

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Fourth periodic report of Sweden

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.95-19169 (E)

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Fourth periodic report of Sweden (CCPR/C/95/Add.4)

1. At the invitation of the Chairman, Mr. Magnuson and Mr. Lempert (Sweden) took places at the Committee table.

2. The CHAIRMAN welcomed the delegation of Sweden, explained the procedure to be followed, and invited the head of the delegation to introduce the fourth periodic report (CCPR/C/95/Add.4). He also welcomed three government officials from Thailand who were attending the meeting.

3. Mr. MAGNUSON (Sweden) said that Sweden had submitted its fourth periodic report in October 1994. He drew attention to an error in the third periodic report which had been reproduced in the fourth: it concerned the reference, in paragraph 25, to Sweden's report submitted under the Convention on the Elimination of All Forms of Discrimination against Women. The reference in paragraph 96 of the report to amendments to chapter 2, article 12, of the Swedish Instrument of Government should also be clarified: the effect of those amendments was that the freedoms of assembly and demonstration could be restricted by authorization of the Government and of the responsible authorities, such as the police. That represented no change in substance: it merely reaffirmed the current situation in respect of statutory law.

4. With effect from 1 January 1995, Sweden had incorporated into its domestic legislation the European Convention for the Protection of Human Rights and Fundamental Freedoms. International treaties were not directly applicable in Swedish law: to become applicable, they must either be converted into Swedish legislation or incorporated through a special act. Incorporation was very rare, but conversion was regularly performed, if necessary, before a treaty was ratified. There were several reasons for the incorporation of the European Convention into Swedish domestic law. Sweden was now a member of the European Union. The European Convention had a special status among other human rights instruments, since there was a strong legal foundation for its application and under it individuals were able to have their complaints tried by a court of law. The rules of the Convention had gradually been made more specific through the continuous activities of its monitoring bodies.

5. Before Sweden had ratified the International Covenant on Civil and Political Rights, a careful scrutiny had been made to ensure that Swedish law was in conformity with that Covenant. That scrutiny, which had taken the form of a special bill to Parliament, had shown that Swedish law complied to a very large extent with the Covenant. However, Sweden had felt obliged to make reservations in a number of areas, and those reservations still remained. Under Swedish case law as established by a number of decisions of the Supreme Court, domestic legislation and any amendments thereto must be interpreted in accordance with Sweden's international obligations.

6. There had been a number of developments in the field of equality between women and men since the third periodic report had been submitted. The new Government that had taken office after the general election in October 1994 comprised an equal number of women and men - 11 of each. The deputy Prime Minister was also the Minister for Equality Affairs. The general election had resulted in an increase in the number of women in the Swedish Parliament from 33 to 40 per cent, while the number of women in municipality and county councils had increased to 40 and 48 per cent respectively. That was important, because Swedish policy was based on the conviction that power-sharing between women and men in all fields and at all levels of society was a precondition for equality. A second priority was the integration of a gender perspective, or "mainstreaming", in all policy areas. The Government was working actively towards that end: for example, all committees of inquiry and bodies carrying out studies, analyses and proposals as a basis for government policy in various fields had been asked to analyse their work from a gender perspective and report on the effect of their proposals on both women and men.

7. Turning to the rules on compulsory mental care, he stressed that the legislature was seeking to reduce the use of such measures and to strengthen the legal rights of individuals subject to compulsory care. One of the main purposes of the evaluation mentioned in paragraph 51 of the report was to investigate whether the new legislation on compulsory care had resulted in reduced use and stronger legal protection of the individual.

8. In reference to the Act on Judicial Review of Certain Administrative Decisions mentioned in paragraph 70 of the report, he said the period of applicability of the Act had been extended until the end of 1997. As from April 1995, the Supreme Administrative Court reviewed only governmental decisions, whereas decisions by the administrative authorities were reviewed by the administrative courts of appeal.

9. The new law relating to the court handling of cases of juvenile delinquency, referred to in paragraph 72 of the report and in question II (e) of the list of issues, had entered into force on 1 March 1995. The amendments to the Data Protection Act referred to in paragraph 79 had entered into force on 1 January 1995. Their effect was that appeals against decisions by the Data Inspection Board were henceforth to be handled by administrative tribunals instead of by the Government, except when the complainant was a State authority, in which case the matter would be dealt with by the Government.

10. Paragraph 85 of the report described the rules concerning religious studies in upper secondary school. It should be made clear that, under the Schools Act, students in upper secondary school could be exempted from religious studies under the same conditions as students in the nine-year compulsory schooling, as described in paragraph 84. The relationship between the State and the Church of Sweden was in transition. The Government had submitted to Parliament a bill based on a proposal by the Church Assembly of the Church of Sweden concerning the abolition of automatic membership in that Church. Subject to parliamentary decision, the new rule would enter into force on 1 January 1996 and would provide that baptism was the only basis for membership in the Church. After consultation with the Church Assembly, the

Government had also proposed that Parliament should approve the principles for a changed relationship between the State and the Church of Sweden. The reform, which was regarded as of historic importance, would result in enhanced equality among the various religious communities and was expected to enter into force on 1 January 2000.

11. With reference to paragraph 117 and to question I (g) on the list of issues, he said that the rules in the Penal Code relating to protection of children against sexual abuse had entered into force on 1 January 1995.

12. He and his colleagues were prepared to answer, to the best of their abilities, any questions on the Swedish report which members of the Committee might wish to ask.

13. The CHAIRMAN thanked the Swedish delegation for its introductory statement and invited it to respond to section I of the list of issues, which read:

"I. Constitutional and legal framework within which the Covenant is implemented, non-discrimination, protection of the family and equality of the sexes, and rights of persons belonging to minorities (arts. 2, 3, 23, 24, 26, and 27)

(a) In view of the statement in paragraph 20 of the report that the European Convention on Human Rights is regarded as having a special standing, please clarify the status of the Covenant within the Swedish domestic system and clarify whether any consideration has been given to incorporating the Covenant into domestic law (see paras. 20 and 21 of the report).

(b) What are the procedures for the implementation of any views adopted by the Committee under the Optional Protocol?

(c) Has any consideration been given by the Government to reviewing its reservations to the Covenant and to withdrawing them?

(d) Please provide information on the recommendations adopted at the end of the parliamentary inquiry regarding migration and the rights of aliens in Sweden, which were expected to be released in the course of 1994 and 1995 (see para. 8 of the report).

(e) Please provide further information on the functions, powers and activities of the commission on xenophobia and racism (see para. 17 of the report).

(f) To what extent have women achieved equality in the political, economic and social life of the country? What measures have been taken to overcome current trends widening the gap between men and women regarding remuneration?

(g) Has proposal 1994/95:2 relating to the introduction of more severe penal rules aiming at better protection of children from sexual abuse, including pornography, been adopted (see para. 117 of the report)?

(h) Please clarify why the proposals mentioned in the third periodic report to include in the Constitution a specific reference to the Sami people and to envisage the possibility of enacting a special Sami Act have not been adopted (see CCPR/C/58/Add.7, para. 290, and para. 122 of the fourth periodic report).

(i) What activities has the Sami Assembly (the Sameting) undertaken thus far (see para. 124 of the report)?"

14. Mr. MAGNUSON (Sweden), referring to question I (b) of the list of issues, said that there were no special procedures for implementation of the views adopted by the Committee under the Optional Protocol. If the Committee should find that Swedish legislation was not in conformity with the Covenant in some way, Sweden could amend its legislation. If the Committee found that only the implementation of the law - for example, by an administrative authority - was incompatible with the Covenant, the Government could inform the authority of the views of the Committee and give general instructions on how to implement the law.

15. Turning to question I (c) concerning the Swedish reservation to article 20, paragraph 1, of the Covenant, he said the Government had not considered withdrawing that reservation. Before Sweden had ratified the Covenant, the feasibility of making war propaganda an offence had been discussed. The Government had decided, however, not to submit a bill to that effect to Parliament in view of the difficulties of delimiting the scope of the punishable offence and the risk that a penal provision might be detrimental to free debate. Sweden had also made a reservation on the detention of juvenile offenders separately from adults. The Convention on the Rights of the Child provided that every child deprived of liberty must be separated from adults unless it was considered in the child's best interests not to be separated. Sweden was a party to that Convention and had not made any reservation to it. Only a very few offenders under the age of 18 in Sweden were sentenced to imprisonment: on any given day, there would be a maximum of 10 or so juveniles in prison. Under the Correctional Treatment Act, when a prisoner under the age of 21 was to be sent to a custodial establishment, special attention must be given to keeping him or her separate from prisoners likely to have a detrimental affect on his or her adjustment in society, unless special reasons dictated another course of action.

16. A parliamentary commission on prisons had proposed two alternatives for the separation of offenders under the age of 18 from other inmates. The first was to keep all juvenile offenders in one central prison. Because Sweden was extremely large, however, that would mean that many juveniles would be detained far from their homes, making it more difficult for them to stay in touch with their families and for social authorities to retain the necessary contacts with them. The other alternative would be to detain juveniles in an institution close to their homes but to isolate them from all other inmates. The commission had found it hard to see how that would be in the child's best

interests. It had recommended that juvenile offenders should be allocated to prisons that had special competence to receive them. Its report had been circulated for comment by various authorities and organizations which, with a few exceptions, had endorsed the recommendation. The Ministry of Justice was still studying the recommendation.

17. The Prison and Probation Administration tried to find a suitable allocation in each specific case of juvenile detention. Mariefred prison was used for young offenders up to 25 years of age and had a regime designed to meet the needs of such offenders. One wing of Norrköping prison was used for young offenders who were sentenced for serious crimes and were in need of psychiatric treatment.

18. The third reservation made by Sweden to the Covenant concerned the non bis in idem rule (art. 14, para. 7). Sweden's view on that matter was identical to that expressed when the third periodic report had been discussed.

19. Mr. LEMPERT (Sweden), responding to the request made in question I (d) of the list of issues concerning migration, said that the previous Government had decided to launch a parliamentary inquiry into the subject, but the present Government had resolved instead to set up two separate commissions: one on immigration policy and one on integration. The first commission had already submitted its report to the Government, and he could provide a summary of that voluminous document in English if the Committee wished. It raised a number of issues that might interest the Committee, such as global cooperation on migration in general and on the prevention of forced migration in particular. It stressed the need to implement human rights and humanitarian law in order to prevent refugee situations from arising. In looking at cases of forced migration in the world today, the commission had concluded that they more often entailed mass flight than individual persecution. It had therefore proposed means of dealing with that particular kind of forced migration, including economic support for regions confronted with refugee crises and burden-sharing to lift the responsibility for refugee care from individual border countries.

20. The commission had also made recommendations on, and suggested certain changes in, Swedish legislation on the right of asylum. There were currently four categories under which an individual could apply for asylum in Sweden: as a refugee within the meaning of the 1951 Convention relating to the Status of Refugees; as a de facto refugee, i.e. a person who could not return to his or her home country because of political conditions there; as a war resister; and on humanitarian grounds. During the past 10 years, all successful applications for refugee status had been made on humanitarian grounds. Accordingly, the commission had suggested that a refugee should be defined only in the terms of the 1951 Convention, but those terms should be given a broad interpretation in according permanent residence status in Sweden. In cases of mass flight, the commission had suggested that refugee status should be accorded, but for a fixed period: initially two years, with the possibility of six-month extensions. The Government was still studying those suggestions and had not yet taken any decision on them.

21. The second commission was looking into the question of immigration policy. In Sweden as elsewhere, racism was a major concern. The commission

had not yet completed its report but was expected to do so in March 1996. It had already put forward a number of ideas, however, including that of a quota system for labour market activity and the provision of jobs for foreigners in Sweden.

22. Turning to question I (e), he said the commission on xenophobia and racism had been established by the former Government but disbanded by the current one, which had decided that a more permanent way of dealing with such problems must be found. The approach to that issue was directly related to the work of the commission on immigration policy, whose findings, as he had said, were expected to be available in March 1996.

23. Mr. MAGNUSON (Sweden), replying to question I (f) on the list of issues concerning equality between men and women, said Sweden had been listed in the Human Development Report issued by the United Nations Development Programme as leading the world in terms of equality between men and women. Although legal barriers to equality had been removed and reforms pursued in all areas to promote equality, much remained to be done to achieve de facto equality. Women's economic independence remained one of the key areas of concern. In 1994, 80 per cent of women and 84 per cent of men had belonged to the workforce. There were statutory rights for shorter working days for both women and men with small children and ample opportunities for public child care and parental benefits. In spite of those positive developments, the labour market remained sex-segregated: the high level of female representation in political life was not matched in private industry, where only about 10 per cent of the highest posts were occupied by women. Intense efforts to correct that situation were under way. The Government had supported the creation of a business academy of leadership to strengthen women's position in private enterprise. Pay differentials were smaller than in many other countries: in general, women earned 80 to 90 per cent of what men did, but the differentials remained a serious obstacle to equality.

24. The Equal Opportunities Act was one of the most important tools for counteracting sex-based discrimination in the workplace and for overcoming sex segregation of the labour market. It comprised two parts: one prohibiting discrimination on grounds of sex - for example, in matters relating to the hiring of employees, terms of employment, including salaries, and termination of employment. The second part obliged employers to take active measures to promote equality in the workplace, such as making an annual survey of pay differentials for women and men. That obligation was instrumental in making pay conditions in the workplace visible and in preventing the institution of gender-discriminatory pay differentials. The Government had also commissioned a work environment fund to allocate resources to further research on pay differentials and schemes for the evaluation of women's and men's work, and to provide financial support for experimental projects in the area of equal pay.

25. In 1994, the Government had set up two committees. One was investigating the distribution of economic power and men's and women's access to economic resources, in society as well as in the family. The other was studying matters relating to women's present position in the labour market. The proposals to be submitted to the Government by those two committees would form an important basis for further measures to promote equality.

26. Very active efforts had been made to promote equality in education in recent years. In early 1995, the Government had submitted a bill to Parliament which had resulted in amendments to the Schools Act whereby all employees in schools, including those engaged in adult education, must assume responsibility for promoting equality in education. The Ordinance on Higher Education had been amended to introduce the possibility for affirmative action to increase recruitment in universities of applicants of the under-represented sex. A special committee had been set up to investigate means of promoting women's studies and gender research.

27. He had replied to question I (g) in his introductory remarks; the relevant amendments had been adopted in January 1995.

28. Turning to question I (h), he said that, although such proposals had been made by the commission on Sami law, the Instrument of Government contained no special reference to the Sami people. The Government had come to the conclusion that as an ethnic minority the Sami people were already protected by, inter alia, chapter 1, article 2, of the Instrument of Government, which provided that opportunities should be promoted for ethnic, linguistic and religious minorities to preserve and develop a cultural and social life of their own. That provision corresponded to the 1973 proposal of a government commission on freedoms and rights, which had stressed that the word culture should be given a broad interpretation, citing Sami reindeer farming by way of example. Chapter 2, article 15, of the Instrument of Government stipulated that no act or other statutory instrument should entail discrimination against any citizen because he belonged to a minority on account of race, skin colour or ethnic origin; the Sami people, an ethnic minority group, were covered by that provision.

29. Chapter 2, article 18, of the Instrument of Government provided that any citizen whose property was seized under an expropriation order or any similar disposition would be guaranteed compensation for his loss under terms established by law. The right of the Sami people to use reindeer-grazing land - regulated by the Reindeer Husbandry Act - was covered by that provision in the same way as property. So long as the Act was in force, the Sami people could not be divested of that right by law or any other means without compensation. Therefore, while Sweden had no special Sami Act, the Instrument of Government provided them with full constitutional protection. Furthermore, the Sami Bill of 1992 had contained a proposal for a Sami Council Act which would regulate the activities of the Sami Council. The Act would also contain a definition of who could and who could not be considered a Sami.

30. While the collective right to engage in reindeer farming was established on the basis of ancient custom, reindeer husbandry legislation had long existed. A new provision of the Instrument of Government stipulated that the right to engage in reindeer husbandry should be established by law; it also established the right to discriminate in favour of the Sami people, despite the fact that Swedes enjoyed the right to engage in any kind of trade. The right of the Sami people to engage in reindeer husbandry should thus be seen as a privilege.

31. Turning to question I (i), he said that the translation of the Sameting preferred by Sweden was the Sami Council. In accordance with the objectives

established by his Government, the Sami Council had set up an information department designed to disseminate information both about its activities and about the lives of the Sami people. It published a quarterly bulletin with a circulation of 1,000 copies per issue; that figure was not inconsiderable in view of the fact that the Sami population stood at roughly 20,000 (no exact count was available). Only 2,500 were engaged in the traditional reindeer industry. The Sami Council had begun to work on the creation of videos, exhibits and brochures telling the history of the Sami people; a press service has also been launched. The Sami Council had furthermore created a Sami language committee whose mandate was to propose measures that would foster the use of the Sami language. It should be noted that no Swedes spoke only Sami; the Sami people were virtually 100 per cent bilingual. The Sami Council addressed matters of culture, higher education and research; it had, in particular, promoted the creation of a Sami theatre.

32. The Council was engaged in efforts viably to sustain the Sami reindeer husbandry and to establish a broader economic base for the Sami people. Council representatives had taken part in a number of official committees: a hunting group, devised to evaluate the transfer of rights for the hunting of small game and a predatory animal group, whose purpose was to formulate proposals for the establishment of a detailed compensation system for damage caused by predators. The Council had also drafted proposals for Sami European Union programmes. In the current year, democratically-elected Sami bodies in Finland, Norway and Sweden had extended the scope of their mutual cooperation and were assessing the establishment of a joint secretariat. Finally, the Swedish Sami Council was participating in the work of the United Nations in the matter of indigenous peoples and Arctic cooperation.

33. Mr. POCAR commended Sweden for the quality and punctuality of its reports, which were in all respects exemplary. He desired further information on two additional points. It would be useful to know how the Government of Sweden would respond if the Committee expressed the view that the author of a communication should be entitled to compensation. Would the victim be entitled to a specific remedy on the basis of that decision, taking into account that the violation would necessarily be based upon a domestic court decision that was final? Would the Government itself provide compensation and, if so, what was the procedure for its provision? He presumed that such a compensation procedure was established in Swedish law with regard to similar determinations by the European Court of Human Rights.

34. He welcomed the introduction of more severe penal rules for the protection of children, especially since reports indicated that the sexual abuse of children had been on the rise in Sweden in recent years. While Sweden would certainly have supplied such information to the Committee on the Rights of the Child, the Covenant too contained specific provisions concerning protection of children; information would therefore be of interest to the Committee on any further recent measures taken in that regard.

35. Mr. BRUNI CELLI said that, according to paragraph 2 of the core document (HRI/CORE/1/Add.4), Sweden was a multicultural, multiracial society; of its over 8 million inhabitants, 800,000 were foreigners, or approximately 10 per cent. Their status was thus of considerable importance. Paragraph 9 of the report stated that the Terrorist Act of 1989 had been replaced in 1991

by the Special Control of Aliens Act. Admittedly, foreign terrorists sometimes existed, but a foreigner was not the same as a terrorist. What did the one have to do with the other? A description of the principal provisions of the 1991 Act would be useful.

36. Racism had been on the rise in European countries in recent years. Were there in fact racist and xenophobic organizations operating in Sweden, and how pervasive were they? Paragraph 12 of the report asserted that despite the absence of legislation banning such organizations, in practice they were unable to function. Clarification would be useful; the Swedish Government should, in particular, describe any measures it was taking to restrict the activities of racist entities.

37. Ms. MEDINA QUIROGA said that she welcomed the opportunity to examine the report of a country with such an outstanding human rights record. Two questions, however, arose. First, she shared the concern raised by Mr. Pocar: how would the Swedish Government react if the Committee recommended compensation to a victim under the terms of the Optional Protocol? Secondly, the abundance of information supplied by Sweden concerning its efforts to integrate women into Swedish society on a par with men was impressive; the information offered on the matter of racism was scant by contrast. How severe was the problem of racism in Sweden today? What measures was the Government taking to address that phenomenon?

38. Mr. KLEIN said that, in the light of Sweden's commendable record of respect for human rights, it was difficult to quibble. The issues he wished to raise were of relatively minor importance. The Swedish report had devoted only one sentence to article 1 of the Covenant; while self-determination was admittedly not a matter of crucial importance to the affairs of Sweden, on principle he did not accept the notion that article 1 did not apply because that State had no colonies and was not responsible for the administration of non-self-governing or trust territories. It should be clear from the Committee's general comment No. 12 that the matter of self-determination was much broader than that statement would suggest.

39. The rising incidence of acts of xenophobia and racism in Sweden was alarming; he was well aware of the Swedish Government's efforts in that domain. What, however, in the view of Sweden, were the underlying reasons for such a trend? Was it the same as that which was occurring in other European countries, or were there causes peculiar to Sweden? It would be useful to know if racist acts were directed against a specific race, or more broadly against non-Swedes or non-Europeans. The argument put forth in paragraph 12 of the report - namely, that to prohibit such organizations courted the risk of driving them underground was unconvincing. Although that might hold true for political parties, such was not, in his view, the case with social entities. The unwillingness to ban racist organizations might in fact suggest a lack of resolve on the part of the State.

40. Mr. BHAGWATI congratulated Sweden on its clear, detailed and comprehensive report. The Swedish Government should furnish additional information on what steps it was taking, if any, to ensure that children adopted on an intercountry basis were properly cared for and assured of their

rights. A description of the mandate of the Office of the Children's Ombudsman would also be useful, as well as of any programmes it had launched.

41. In 1993 a law had been enacted permitting others to hunt on designated Sami reindeer pastures; a 1994 law allowed others to fish in lakes previously reserved for Sami use. Samis had conducted protests against those two laws. Had the relevant legislation subsequently been modified. Samis had also complained of discrimination in housing and employment. What measures, if any, was the Swedish Government taking to combat such discrimination?

42. The assertion had been made that the European Commission of Human Rights favoured accepting the definition of refugee status set out in the 1951 Convention relating to the Status of Refugees. That definition was now, however, widely acknowledged to be obsolete, having been devised during the cold war to address the problem of Nazi persecution. UNHCR currently defined the problem as one of migratory flows: how such refugee movements could be stemmed, and how to rehabilitate refugees unable to return home. That approach required a determination with regard to the status of refugees; it would be useful to know what measures, if any, Sweden had taken in that regard. Had a copy of the report been offered to UNHCR for its comments? The Swedish Government should perhaps consider consulting that body before approving the report.

43. Aliens were evidently sometimes detained under less than favourable conditions in Sweden; the Government should describe the provisions of the laws under which aliens were detained, under what circumstances they could be detained, and what safeguards, if any, existed to protect them. How often were aliens detained for periods in excess of two months? In that event, what happened next?

44. He had been pleased to learn that the commission on women had recommended affirmative action in the recruitment of teachers. Had that recommendation been adopted by the Government? To what effect? Finally, by what mechanism was work of equal value determined? Was such determination a function of the Equal Opportunities Ombudsman?

45. Mr. ANDO, referring to paragraph 1 of the report, associated himself with the earlier observation that while the statement contained in the paragraph was, of course, entirely correct, a more extensive comment by the Swedish Government on the subject of self-determination would have been welcome. Referring to the penultimate sentence of paragraph 24, he asked who it was that decided whether an injured party had a need for assistance by counsel. Had any problems been encountered in connection with the procedure described in the sentence? Referring to paragraph 31, he associated himself with Mr. Bhagwati's observation about the difficulty of defining what constituted work of equal value. Noting that the paragraph spoke of "employers with at least 10 employees", he asked whether employers with fewer than 10 employees could also be ordered to pay a fine if they did not comply with the Equal Opportunities Act. Further on the subject of fines, he said that they should be sufficiently heavy to inhibit employers from breaking the rules. It would be interesting to know what fines were in fact imposed and whether they were producing the desired effect.

46. With regard to the question of equality of the sexes, he recalled a statement he had made on the occasion of the consideration of Sweden's third periodic report to the effect that, important as it was, numerical equality was not the only criterion that should be applied in certain fields of social activity. In that connection, it would be interesting to hear more about the philosophy underlying Sweden's policies. An illustration of the difficulty inherent in the attempt to express everything in numerical terms was provided by paragraph 114 of the report, which said that studies on the economic effects of day-care services showed that it paid to have such services since they enabled both parents to be in gainful employment which generated tax revenues. While that statement was undoubtedly true, he could not help feeling that the emotional side of the parent-child relationship was perhaps being a little neglected. Lastly, referring to the penultimate sentence of paragraph 102, which stated that partners in a registered partnership between two persons of the same sex would not be able to adopt children, either jointly or singly, he asked what the situation would be if one of the partners had already adopted a child or children before entering into the partnership.

47. Ms. EVATT, referring to the question of the rights of the Sami people mentioned in paragraph 123 of the report, said it was not clear whether the Sami were in future to have exclusive rights in the field of reindeer farming and fishing. To what extent could others engage in those activities, and to what extent did the participation of others encroach upon the right of the Sami people to maintain and follow their own culture?

48. Noting the continuing presence of fascist tendencies in Swedish society, especially among young people, as manifested by cases of racist violence including attacks on vulnerable groups such as refugees and even children, she asked for information about the effects of the introduction of the harsher punishments referred to in paragraphs 13 and 14 of the report. How was the element of racism or racist intent in "ordinary" crimes determined? Her personal feeling was that, while laws of the kind described in those paragraphs might be needed, they could never be the main answer to the problem of racial discrimination. In that connection, she associated herself with Ms. Medina Quiroga's question whether the current policies of the Swedish Government were essentially assimilationist or, rather, multicultural in the sense that they valued and encouraged the benefits of cultural and linguistic diversity within a framework of equality, tolerance and respect. Lastly, referring to paragraph 118 of the report, she asked for an elucidation of the statement that ordinary elections for Parliament were henceforth to be held "with a possibility for greater personal representation".

49. Mr. BAN, referring to the question of the mechanism used in Sweden for complying with the views of the Human Rights Committee, asked whether the system employed for taking decisions on a case-by-case basis was different from the mechanism whereby the Swedish Government complied with judgements of the European Court of Human Rights. Referring to paragraph 11 of the report, he asked for an explanation of the statement that the Ombudsman against Ethnic Discrimination had been given a litigating role in the relevant court procedures. Was the Ombudsman empowered to institute proceedings in place of the party concerned, and, if so, was that power limited to labour market issues or could he also initiate proceedings in cases involving racial hatred or violence? It would be appreciated if the Swedish delegation could provide

figures indicating how frequently the Ombudsman had availed himself of his litigating role, as well as figures for assaults committed by offenders motivated by racial or ethnic hatred.

50. Referring to paragraph 36 of the report, he asked whether the final report of the governmental commission to review all issues related to violence against women had been presented, as planned, at the end of 1994. Information reaching him from different quarters suggested that, despite the Swedish Government's efforts and the measures taken, the number of rapes committed every year still stood at 1,400, a figure that had remained unchanged since 1989. Any further information in that respect would be most welcome.

51. Lastly, referring to paragraph 123, he remarked that the statement that the right of the Sami people to practise reindeer farming would in future be regulated in law did not appear consistent with Mr. Magnuson's statement that the hunting and fishing rights of the Sami people were based on immemorial custom.

52. Mr. LALLAH, noting the explanation provided in paragraph 12 of the report of the Swedish Government's reasons for the decision not to propose legislation prohibiting racist organizations, asked how many such organizations were in existence and whether their influence did not create a problem at election time. Like Mr. Klein, he found it disturbing that racism and xenophobia should be relatively widespread in a country with an otherwise remarkable human rights record. Given the fact that youth was the age group most involved, did the problem perhaps lie in the education children received?

53. Mr. PRADO VALLEJO said that, while Sweden was not a paradise on earth, its human rights record was certainly outstanding. Rather than express concern at any particular area of human rights, he wished merely to seek a few clarifications. In paragraph 3 it was stated that Swedish citizens had a stronger guarantee than non-nationals against extradition. It would be interesting to know the precise nature and scope of that difference. Paragraph 4 stated that there was no provision for appeal to the Government against decisions of the Aliens Appeals Board. Why was there no such provision? Paragraph 18 spoke of different treatment given to non-Nordic immigrants/asylum-seekers in terms of labour market measures. There again, an indication of the nature and scope of the difference would be welcome.

54. He would also appreciate an explanation of the last sentence of paragraph 26 to the effect that, despite progress achieved, much remained to be done to achieve de facto equality between men and women. Paragraph 27 spoke of efforts to change the structures in society which contributed towards maintaining gender segregation, female subordination and male domination. What progress had been made in changing those structures?

55. Lastly, he asked the Swedish delegation to provide information on the case of a Peruvian woman who, according to a 1993 report by Amnesty International, had obtained asylum in Sweden but had nevertheless been

returned to Peru, where a sentence had been passed upon her earlier. Did such an action not constitute a breach of one of the basic principles of the laws of asylum?

56. Mr. El Shafei took the Chair.

57. Mr. MAGNUSON (Sweden), replying to questions in connection with paragraph 36 of the report, said that efforts to prevent and eradicate violence against women had high priority in Sweden. Measures implemented in recent years included preventive measures, stricter penalties, procedural improvements and better support for victims of sexual crimes. The main task of the commission on violence, whose report to the Government had been presented with some delay in June 1995, had been to review all measures already taken and to propose measures reflecting a more holistic approach to the issue of violence against women. The commission had been particularly instructed to present its proposals from a female perspective.

58. The commission's report, which was very comprehensive, made proposals regarding the judiciary, including amendments to the Penal Code, the social services, the health and medical care services, and higher education. The suggested amendments to provisions in the Penal Code concerned both the language and the contents of the provisions. Thus, it suggested the introduction in the Code of a new offence termed "breach of a woman's peace", an offence that would cover violence and other abuses against women living in a close relationship with men, such as spouses, cohabitants, mothers or daughters. The aim of the proposed provision was to deal with certain types of conduct which were not criminalized at present, the common factor between them being that they involved violations of a woman's integrity on a lasting basis. The punishment proposed for the offence was imprisonment for not less than one year and not more than six years. Among the numerous other proposed amendments to the Penal Code, he wished to single out a proposal concerning heavier punishments (imprisonment for up to four years) for female genital mutilation. The commission also proposed a new system of penalties for rape of children; sexual abuse of a child under the age of 15 would be punishable irrespective of whether or not compulsion had been involved.

59. Other proposals by the commission involved further training of personnel in the judiciary, the social services, and the health and medical care services in matters relating to violence against women, as well as improvements in the system for recording crimes in that field, including better statistics. Proposals for amendments to the Social Services Act included improved support and assistance for women subjected to violence and a stipulation requiring the social services to report to the municipal council on measures taken on a yearly basis. Intense monitoring by electronic devices was proposed in the case of male perpetrators who could not be induced to respect notification of a restraining order. Increased financial support was proposed for non-government organizations providing shelter to women subjected to violence, and for various centres for victims of crime. The commission's report was currently being circulated for consideration to a large number of authorities and non-governmental organizations. A bill would be presented to Parliament once the Government had received their views.

60. The CHAIRMAN invited the Swedish delegation to respond to section II of the list of issues, which read:

"II. Right to life, treatment of prisoners and other detainees, liberty and security of the person and right to a fair trial (arts. 6, 7, 9, 10, 11 and 14)

(a) Please provide information on the recommendations contained in the final report of the governmental Commission appointed to review all issues related to violence against women, as well as on measures envisaged to implement them (see para. 36 of the report).

(b) Given the discussion on that subject during the consideration of the third periodic report, please provide information on the implementation in practice of legal provisions relating to the detention of immigrant children under 18 while the status of their parents is being investigated and comment upon their compatibility with the Covenant. Please clarify whether any reform concerning the application of administrative detention is envisaged in that context (see para. 52 of the report).

(c) Please describe the experience to date with the implementation of legal provisions relating to intensive supervision through electronic control of persons sentenced to short-term imprisonment and who have the possibility to serve the sentence in their home (see para. 56 of the report).

(d) Has any step been taken to address concerns expressed during the consideration of the third periodic report about the possibility of extended periods of solitary confinement (see A/46/40, para. 348)?

(e) Has proposal 1994/95:12 containing amendments for the handling of court cases on juvenile delinquency already been adopted by the Riksdag (see para. 72 of the report)?

(f) Has the examination of the report on penalties for juveniles been concluded and, if so, have legislative changes been made?"

61. Mr. LEMPERT (Sweden), responding to question II (b), said that adults could be held in custody during the process of determining their identity upon arrival in Sweden, during investigations of claims for asylum, and also as a precaution to ensure the enforcement of expulsion orders. In the case of children under 16, the possibilities for detention in custody were further restricted and were permitted for shorter periods only. On the whole, children were held in detention when their parents were subject to forced expulsion because of a refusal of entry order.

62. In 1994, the total number of asylum-seekers in Sweden had been approximately 18,000, representing 18,000 possibilities for detention. There was a backlog of approximately 15,000 cases in which entry had been denied but no further action had so far been taken, and a further 15,000 cases in which entry had been denied and the persons concerned were due to be expelled.

There had therefore been nearly 50,000 cases of persons eligible for detention in 1994. In that year, out of a total of 4,177 detainees, 79 had been children under the age of 16 and in virtually all cases expulsion orders were being enforced. Of the 79 children, 41 had been held for less than 24 hours, 27 had been held for 1 to 3 days, and 10 had been held for longer periods. The question of detention was related to police functions in Sweden. If a person resisted an expulsion order, the police officers entrusted with the task of carrying out that order would have to forcibly take that person or family in a police vehicle to the airport. The act of taking the person or family in the vehicle constituted detention, and that person or family would be one of the cases mentioned in the statistics. Where children were taken into custody, there was an absolute ban on placing them in jails or other correctional institutions. There were special adoptive centres for that purpose. Furthermore, there was also an absolute ban on separating children from their parents or guardians.

63. Mr. MAGNUSON (Sweden), replying to question II (c), said that the National Council for Crime Prevention (NCCP) had evaluated the first seven months of an experiment involving intensive supervision through electronic surveillance. According to the NCCP, 93 per cent of applicants had been admitted to the programme. Only 6 of the 122 participants had been returned to prison because of misconduct. The participants themselves considered the supervision as strict, but preferable to imprisonment, and the programmes for which the participants' attendance was compulsory were considered to be a meaningful part of the sentence.

64. In response to question II (d), he said solitary confinement could not be used as a disciplinary measure in Sweden. A prisoner serving a sentence could temporarily be kept apart from other prisoners during the investigation of a disciplinary matter if such separation was unavoidable to prevent investigations from being jeopardized. However, in no circumstances could a prisoner be kept apart from other prisoners for more than four days.

65. A prisoner could also be kept separate from other inmates in the following five cases: in cases where it was necessary, in the interest of national security, to prevent danger to the life or health of the prisoner or other persons or serious damage to prison property; to prevent one prisoner from influencing another to seriously disturb order within the prison; to prevent one prisoner from helping another to gain access to intoxicating substances; to prevent a prisoner from seriously molesting another; and to carry out a physical examination of a prisoner's bodily orifices.

66. A person sentenced to at least two years' imprisonment who had been placed in a closed prison would be kept separate from other prisoners if it was suspected that he or she was planning to escape, or that other persons were planning to set him or her free. Separation would be necessary to prevent such plans from being carried out, or if it was otherwise suspected that the prisoner would continue criminal activity of a serious nature. If there was reason to suspect that those circumstances would obtain over a relatively long period, the prisoner could be placed in a special wing of the prison. He could likewise be placed in the special wing if there was reason to believe that it was necessary to prevent him or her from engaging in

criminal activities of a serious nature during the prison term. In those wings, special supervisory arrangements were made and there was limited contact between prisoners.

67. The decision to keep a prisoner separate from other inmates was reviewed as often as necessary and, in any case, at least once every 10 days. A decision to place a prisoner in a special wing was reviewed as often as necessary and, in any case, at least once a month. Prisoners who were kept apart from their inmates must be examined by a doctor if necessary and a medical examination must always be conducted whenever a prisoner had been kept continuously separate from other inmates for a period of one month. There were no limits for the total amount of time a prisoner could be placed in a special wing or kept apart from other prisoners for security reasons. The parliamentary commission on prisons had not recommended any changes in that respect.

68. On question II (e), he said the 1994 proposal containing amendments of a procedural nature had been adopted by Parliament on 30 November 1994 and had entered into force in March 1995. Turning to question II (f), he said that, as stated in paragraph 64 of the fourth periodic report, the proposal for a new system of sanctions was still under consideration by the Ministry of Justice and therefore no new legislation had been passed.

69. Mr. KRETZMER expressed appreciation for the excellent report Sweden had submitted. His first question related to paragraph 45 of that report and specifically to the second sentence of article 7 of the Covenant on free consent to medical or scientific experimentation. He asked for further information on the findings of the official report on research ethics and wished to know whether that report had indicated the existence of experiments being carried out on persons without their free consent. His second question related to paragraph 59 of the State party report and article 10 of the Covenant. He asked whether the blood tests conducted on inmates to determine drug addiction could be carried out without the consent of the inmate concerned.

70. Mrs. CHANET observed that Sweden had submitted its reports regularly and punctually and had presented its information in a form that allowed the Committee to follow developments in the area of human rights. That was exactly the intended role of the periodic reports under article 40 of the Covenant.

71. She inquired whether the device used for electronic surveillance was a type of electronic bracelet worn by the convicted persons or whether surveillance was carried out by means of cameras affixed to their places of residence. Her second question pertained to the 1992 Act that took into account new information in the area of psychiatry and asked whether the Act also applied to the treatment of alcoholics or drug addicts. Lastly, she referred to paragraph 73 of the report which mentioned legal amendment of July 1993 limiting the right of appeal guaranteed under article 14, paragraph 5, of the Covenant. In the absence of a reservation on the part of Sweden to article 14, paragraph 5, she wondered whether that amendment was compatible with article 14 of the Covenant.

72. Mr. BUERGENTHAL said he was tremendously impressed by the humane social engineering designed to advance human rights as reflected in the pages of the Swedish report. It was said there was no such place as a human rights paradise, but he believed Sweden came relatively close to being such a place.

73. He requested clarification of the second sentence of paragraph 58 of the report. Paragraph 71 reflected changes induced by Sweden's attempt to conform to article 61 of the European Convention on Human Rights, which made administrative proceedings subject to judicial review. He inquired whether there were still any administrative proceedings which were not subject to judicial review, and whether the administrative tribunals reviewing those matters were in all respects the same as any other tribunal, for example in terms of tenure or independence. He asked what Sweden's experience had been so far in that area because, as he recalled, Sweden had been reluctant to deal with that issue, especially in the area of family law.

74. Mr. KLEIN asked how far the protection afforded by administrative tribunals extended in practice and in theory. He had understood that, even though remedies were granted, there were still some administrative decisions which were not reviewed by administrative tribunals. He wondered whether protection was granted by the courts in the following cases: (1) the expulsion of aliens for reasons of national security (para. 9); (2) acts of the Aliens Appeals Board (para. 4); (3) acts of the Government when cases were passed on by the Board of Immigration or the Aliens Appeals Board (para. 4); and (4) administrative decisions relating to non-employment of persons in the civil service. Also, was there judicial protection against the banning of films by the National Board of Film Censorship because of excessive brutality?

75. He noted that Sweden had only a short time earlier amended the Penal Code to exclude interpretation of penal law provisions by analogy. He was astonished by that fact because one of the essential rules of law, nullum crimen, nulla poena sine lege, excluded it in any event. He asked whether that was not the interpretation of that fundamental maxim in Swedish law or whether the amendment of the Penal Code had been made simply on a declaratory basis.

76. Mr. FRANCIS commended the Swedish delegation for the excellent quality of the report and the equally excellent answers given to the questions on the list of issues. His questions related to those posed by Mrs. Chanet in connection with question II (c) concerning electronic monitoring of persons. He was intrigued with the idea and was curious about its actual implementation.

77. Mr. ANDO requested elaboration on paragraphs 49 and 50 of the report. He asked who brought the cases to court and who represented the patients in court proceedings. In paragraph 51, the report mentioned amendments proposed by the National Board of Health and Welfare which were being studied within the Government Chancellery. He asked for further information on the outcome of that study. He also asked the delegation to provide further information on paragraph 60 relating to article 10 of the Covenant. The penultimate sentence in paragraph 72 raised the question of the procedure followed in deciding whether a young person needed counsel. He asked why the change described in paragraph 73 of the report had been deemed necessary.

78. Mr. BAN said he wished to pose an additional question on the issue raised by Mr. Ando, namely, the care of persons for psychiatric reasons. As medical issues were involved, he wanted to know what methods were available to the court to adjudicate on such matters.

79. The CHAIRMAN invited the Swedish delegation to respond to section III of the list of issues, which read:

"III. Freedom of movement and expulsion of aliens, right to privacy and freedom of conscience, opinion and expression (arts. 12, 13, 18 and 19)

(a) Please provide information on the functions, powers and activities of the Aliens Appeals Board (see para. 69 of the report).

(b) In enforcing expulsion decisions, what meaning is given by the Swedish authorities to the concept of 'third safe country'?

(c) Please provide information on remedies available under the 1991 Act on Special Control of Aliens to persons expelled from Swedish territory because of suspected terrorist involvement (see para. 9 of the report).

(d) Please provide information on the changes introduced in July 1994 with regard to the expulsion of aliens who have committed crimes (see para. 7 of the report).

(e) Given the requirements in article 20, paragraph 2, of the Covenant and the prohibition of manifestations of racism and ethnic discrimination in Swedish law, please elaborate further on the decision of the authorities not to propose any legislation prohibiting racist organizations (see para. 12 of the report).

(f) Have any steps been taken by the Government to implement the new rules proposed by the 1994 Church Assembly in order to depart from the actual situation whereby children automatically become members of the Church of Sweden at birth (see para. 87 of the report)?

(g) Have the suggestions of the Commission on Personal Identification Numbers regarding considerable limitations to the use of PINs in Sweden been endorsed by the Government (see para. 80 of the report)?

(h) Please provide further information on the functions, powers and activities of the National Board of Film Censorship (see para. 91 of the report).

(i) Have any steps been taken to address concerns expressed by the Committee at the end of the consideration of the third periodic report with regard to rules regarding the censorship of extreme violence in the media (see A/46/40, para. 348)?"

80. Mr. LEMPERT (Sweden), referring to question III (a), said that the Aliens Appeals Board, which had been established on 1 January 1992, was internationally regarded as a court of law. Its members were lawyers, judges and other persons appointed to try cases which had been appealed against from the Immigration Board. It was a court of final instance. That meant Sweden had a two-instance mechanism for handling asylum claims. However, it was not possible for the Government to tell the Appeals Board how to decide on a particular case or to instruct the Board to refer certain cases to it. Nevertheless, there were provisions in law for allowing the Appeals Board to refer certain cases to the Government in specific situations, for example, when guidance was needed for the interpretation of legislation. According to the footnotes to the relevant legislation, cases involving refugees as defined in the 1951 Convention were not to be referred to the Government. However, the Immigration or Appeal Boards did refer cases to the Government when they involved granting the right to stay in the country on humanitarian grounds. When Sweden had been faced with applications from approximately 80,000 asylum-seekers from Bosnia and Herzegovina, the question had been asked whether they would be allowed to remain on humanitarian grounds or not, considering the fact that they had not been subject to individual persecution but had been part of a mass-flight situation. Since the phenomenon had potentially enormous economic repercussions on Swedish society, it was a matter requiring government attention.

81. The concept of "third safe country" was defined by the Swedish authorities as a country, other than the applicant's home country, to which he or she could be sent if he or she did not qualify for asylum in Sweden. There were two cases in which the concept was relevant. Firstly, in the case of an asylum-seeker in Sweden who had already been granted asylum in another country, that country could be considered a safe country of asylum. Secondly, a country in which the applicant had already resided before applying for asylum in Sweden and to which he or she could be returned safely would be required to fulfil certain requirements such as accession to the 1951 Convention, the presence of an acceptable determination process, and acceptable standards of care for asylum-seekers. "Third safe country" cases were dealt with as they arose and there was no legislation or lists identifying particular countries as "safe countries". He wished to stress that the lengths to which the authorities would go in dealing with "third safe country" cases varied depending on the third country involved. In the case of a person who had lived in Norway, for example, before applying for asylum in Sweden, the scope of the investigations would not be as protracted as a case involving a country experiencing internal strife.

82. On question III (c), he said no possibility of appeal against a government decision on expulsion was available under the 1991 Act. The Government itself could review decisions but there was no higher instance of judicial review. The Act was in conformity with article 13 of the Covenant. A committee had been investigating questions relating to appeal and had suggested that changes could be instituted to introduce judicial review of such decisions, but no decision had been taken so far.

83. Mr. MAGNUSON (Sweden) responding to question III (d), said that under the new legislation of July 1994 on deportation for criminal offences, the fact that the offence was punishable by imprisonment was sufficient grounds for deportation. Previously, the rule had been that an offence should be punishable by at least one year's imprisonment; in the case of minor offences, deportation could be ordered only in the case of systematic or persistent repetition of the offence and the imposition of a custodial sentence. When assessing the risk of renewed offences, the court would in future be able to consider crimes in general and would not, as in the past, confine its assessment to the risk of repetition of crimes of a similar nature.

84. The CHAIRMAN thanked the delegation for its answers to sections II and III of the list of issues.

The meeting rose at 6.05 p.m.